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Attorneys for Plaintiff,
DEL MAR SEAFOODS, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DEL MAR SEAFOODS, INC.

Plaintiff,

vs.

BARRY COHEN, CHRIS COHEN (aka
CHRISTENE COHEN), *in personam* and
F/V POINT LOMA, Official Number
515298, a 1968 steel-hulled, 126-gross ton,
70.8- foot long fishing vessel, her engines,
tackle, furniture, apparel, etc., *in rem*, and
Does 1-10,

Defendants.

Case No. 3:07 CV 02952 WHA

**DECLARATION OF MARK D.
HOLMES FILED IN OPPOSITION
TO DEFENDANTS' MOTION FOR
ADMINISTRATIVE RELIEF TO
SHORTEN TIME FOR HEARING
DEFENDANTS' MOTION TO
VACATE ORDER OF ARREST**

I, Mark D. Holmes, declare that I am a partner at the firm of McKasson Klein &
Holmes, LLP and am co-counsel with Gregory Poulos of Cox, Wootton, Griffin, Hansen &
Poulos, LLP on this matter. I have personal knowledge of the facts set forth below and
could competently testified to the following if called upon:

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DelMarSeafoods/2504

1. Attached as Exhibit 2 to the Memorandum of Points and Authorities in Opposition to Defendants' Motion For Administrative Relief is a true and correct copy of the letter I sent Defendants' counsel on July 2, 2007, in which I re-iterated and expanded on Plaintiff's position as discussed an early letter dated June 27 letter. In this letter I pointed out that the Cohens did not have standing to assert and interest in the Vessel; and the only person or entity with standing, F/V POINT LOMA Fishing Company, Inc. had been suspended by the Secretary of State since June 1, 2007. I also enclosed a copy of the corporation's status. I have never received a response from defendants' counsel setting forth any authority allowing the suspended corporation to assert defenses in this action contrary to California law.
2. Attached as Exhibit 4 to the Memorandum of Points and Authorities in Opposition to Defendants' Motion for Administrative Relief is a true and correct copy of the letter I received from defendants' counsel dated June 27, 2007 in which he admits that the defendants cannot obtain a bond for the release of the vessel.
3. I will be leaving for a pre-planned family vacation on July 28, 2007 and will not return to the office until August 12, 2007. The entire vacation will be spent traveling with my 80-year old mother-in-law to see relatives residing in Southern California and Arizona.
4. My mother-in-law was recently widowed; has suffered severe meningitis (resulting in short-term memory loss); and needs a walker and/or wheel chair to move about. As such, my mother-in-law will need my and my wife's care and attention in order for my mother-in-law to be able visit us, as well as our relatives, perhaps for the last time. She is unable to care for herself or transport herself without the assistance of my wife and myself. This trip has been planned for several months, and was specifically planned to allow my

1 wife's sister, who normally takes care of my mother-in-law most of the year,
2 a two-week break from her care-giving responsibilities for my mother-in-law.

3 5. Defendants' counsel did not inform me prior to filing his Motion that he
4 would seek an expedited hearing date. I was first informed when Mr. Poulos
5 contacted me and informed me of Defendants' counsel's intent to move on
6 an expedited basis. If he had, I would have explained the foregoing to him
7 and requested that he schedule the hearing date on the same date our Motions
8 to Dismiss will be heard.
9

10 I declare under penalty of perjury under the laws of the State of California that the
11 foregoing is true and correct.

12 Dated: July 11, 2007
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14 By: _____
15 Mark D. Holmes
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